

May 2, 2003

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

RE: Boston Gas Company d/b/a KeySpan Energy Delivery New England, D.T.E 03– 40

Dear Secretary Cottrell:

On April 16, 2003, the Attorney General filed a notice of intervention in this proceeding and issued five sets of information requests. The Attorney General promptly intervened in this case and began to issue comprehensive discovery immediately in order to simplify the proceedings, not complicate them. Since that time the Attorney General has issued six additional sets of discovery.

After several days of negotiations regarding discovery production, Keyspan Energy Delivery New England (the “Company”) has informed the Attorney General that the Company is compiling answers to discovery, but will not respond to any of these discovery requests until the Department issues ground rules.

The Company’s behavior is contrary to the intent of the Department’s regulations, which state: “[d]iscovery requests may be made at any time after the commencement of an investigation and parties are encouraged to comply voluntarily with any such requests for information before the formal hearing process begins.” 220 C.M.R. 1.06(6)(c)(3). The regulations also state that: “[t]he purpose of discovery is to facilitate the hearing process by permitting the parties and the Department to gain access to all relevant information in an efficient and timely manner. Discovery is intended to reduce hearing time, narrow the scope of issues, protect the rights of the parties, and ensure that a complete and accurate record is compiled.” 220 C.M.R. 1.06(6)(c)(1). In a case of this magnitude and complexity, Keyspan should respond to discovery in a prompt manner and not hinder the investigation by deliberately withholding information requested by the Attorney General. The Department has many demands on its valuable administrative resources, and none to waste. “Discovery is supposed to work without constant Department intervention.” *Boston Edison Company*, D.T.E. 97-95 p. 12 (1998). The

Attorney General regrets that the Company's behavior has forced him to raise this issue before the Department.

In order to expedite the Company's responses, the Attorney General requests that the Department issue ground rules now and order the Company to respond immediately to all discovery requests issued more than ten days ago. The Department also consider the Company's behavior when setting the procedural schedule in this case.

Sincerely,

Alexander J. Cochis
Assistant Attorney General

cc. Service list